UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

COURT FILE NO.: CV - 16-6807

BORIS DRABKIN

Plaintiff, **COMPLAINT**

-against-

CAPITAL ACCOUNTS, LLC.
Defendant.

For this complaint, the Plaintiff Boris Drabkin by his attorney, Mikhail Usher, Esq., states as follows:

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(c),15 U.S.C. § 1692k(d), 15 U.S.C. § 1692k(f), and 15 U.S.C. § 1692k(g).
2. This action arises out of Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter "FDCPA").
3. Venue and personal jurisdiction are proper in this District because a substantial part of the events and omissions giving rise to the claim occurred within this District because:

   A. Defendant's collection communications were received by Plaintiff in this district;

   B. Defendant does or transacts business in this district;

D. Plaintiff resides in this district.

PARTIES

4. The Plaintiff, BORIS DRABKIN ("Plaintiff"), is an adult individual residing in Brooklyn, NY, and is a *"consumer"* as the term is defined by 15 U.S.C. § 1692a(3).

9. The Defendant, CAPITAL ACCOUNTS, LLC., is a Tennessee business entity with an address at 310 BILLINGSLY CT., FRANKLIN, TN 37067 operating as a collection agency, and is a *"debt collector"* as the term is defined by 15 U.S.C. § 1692a(6).

11. CAPITAL ACCOUNTS, LLC., at all times acted by and through one or more of the Collectors, agents and/or employees.

FACTUAL ALLEGATIONS

A. CAPITAL ACCOUNTS, LLC., Engages in Harassment and Abusive Tactics

12. At a time unknown to the Plaintiffs, a personal debt was allegedly incurred by the Plaintiff's for some past due bills, thus arising out of transactions that were primarily for personal, family and household purposes.

13. At a time unknown to the Plaintiff, the aforementioned debt was consigned, placed or otherwise transferred to Defendant for collection;

14. Sometime on or about November of 2016, Defendant repeatedly called Plaintiff in an effort to collect a personal obligation alleged to be due by Plaintiff;

15. After the Defendant's initial telephonic communication with the Plaintiff a

validation notice was never sent to Plaintiff by Defendant, but rather continuous and harassing telephone calls persisted;

16. Defendant persisted in repeatedly and continuously calling Plaintiff on his telephone at a time and place that was inconvenient for Plaintiff;

18. Defendant called Plaintiff approximately four (4) times per day at least four (4) times per week.

19. The harassing telephone calls in question, perpetrated by Defendant, would start as early as 8:30 AM and continue throughout the day.

20. As aforementioned the Defendant failed to send a validation notice within Five (5) days of the initial telephone conversation as required by the Fair Debt Collection Practices Act.

21. At no time prior to reposting the debt to the 3 main credit reporting agencies did Defendant ever send Plaintiff any validation notice informing the Plaintiff of his rights.

B. Plaintiff suffered Actual Damages

23. The Plaintiff has suffered and continues to suffer actual damages as result of the Defendant's unlawful conduct;

24. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiffs suffered and continuous to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment;

COUNT I
VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692 et seq.

28. Defendant's conduct violated the FDCPA in multiples ways, including but not limited to, the following:

30. Engaging in conduct the natural consequences of which is to harass, oppress or abuse Plaintiff in connection with the debt plaintiff allegedly owes in violation of 15 U.S.C. § 1692 (d).

31. Contacting the Plaintiff at a place and during a time known to be inconvenient for the plaintiff in violation of 15 U.S.C. § 1692 c (a)(1).

32. Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692 (f).

33. Misrepresenting the amount of debt in violation of 15 U.S.C. § 1692(e)(2);

34. Collecting an amount not authorized by agreement or expressly not permitted by law in violation of 15 U.S.C. § 1692(f)(1).

35. Failing to send Plaintiff a validation notice within five days of the initial communication in violation of 15 U.S.C. § 1692(g).

36. By causing the phone to ring and engaging Plaintiff in telephone conversations repeatedly in violation of 15 U.S.C. § 1692(d)(5).

TRIAL BY JURY

26. Plaintiff is entitled to and hereby respectfully demands a trial by jury on all issues so triable. US Const. amend. 7. Fed.R.Civ.P. 38.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant and for Plaintiff;
- for an award of statutory damages of $1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendant and for Plaintiff;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant and for Plaintiff;
- for such other and further relief as may be just and proper.

Dated: December 9, 2016

Respectfully submitted,

/s/ Mikhail Usher

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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF NEW YORK)
) ss
COUNTY OF KINGS)

Plaintiff BORIS DRABKIN, having first been duly sworn and upon oath, deposes and says as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

B. [signature]

BORIS DRABKIN

Subscribed and sworn to before me
this 9 day of December, 2016.

Mikhail Usher [signature]

Notary Public

MIKHAIL USHER
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02US6348842
Qualified in Kings County
Commission Expires 10/03/2020